

APR 05 2007

Serial No. 10/700,431

Page 16

REMARKS/ARGUMENTS

Claims 1-20 are resubmitted. Claims 1-20 are currently amended. No claims were withdrawn. No new claims have been added.

In the Office action of Jan. 5, 2007, the Examiner:

- I. Objected to the specification for an informality.
- II. Rejected claims 9-16, 17-20 under 35 U.S.C. § 101 because the invention is directed to non-statutory subject matter.
- III. Provisionally rejected claims 1-20 on the ground of non-statutory double patenting over claims of a co-pending application.
- IV. Rejected claims 1-20 under 35 U.S.C. § 102(b) as being anticipated by Microsoft Solution Framework, "MSF Project Management Discipline", v 1.1.

I. Objection to the Specification

In the Office Action of Jan. 5, 2007, the Examiner objected to the specification for an informality. Specifically, the Examiner states that paragraphs [0020] and [0021] on p. 8 of the specification are not related to the section: Brief Description of the Figures. The Applicant has reviewed the patent application in the possession of the Examiner via Public PAIR and it seems that p. 8 is located after p. 9. Thus, p. 8 was inadvertently placed (or scanned by the Office of Initial Patent Examination) after p. 9. From here forward, it is respectfully requested that p. 8 of Applicant's specification be placed or re-ordered AFTER p. 9 of the specification. Again, it is respectfully requested that p. 8 be re-sequenced to its intended position before p. 9.

II. Rejection of claims 9-16, 17-20 under 35 U.S.C. § 101

In the Office Action of Jan. 5, 2007, the Examiner claims 9-16, 17-20

Serial No. 10/700,431

Page 17

under 35 U.S.C. § 101 because the invention is directed to non-statutory subject matter. Applicant has amended claims 9-16, 17-20, as suggested by the Examiner, in order to overcome this rejection.

III. Provisional non-statutory double-patenting rejection of claims 1-20

In the Office Action of Jan. 5, 2007, the Examiner provisionally rejected claims 1-20 on the ground of non-statutory double patenting over claims 1-17 of a co-pending application number 11/147,479. As suggested by the Examiner, Applicant has filed herewith a Terminal Disclaimer in order to overcome this rejection.

IV. Rejection of claims 1-20 under 35 U.S.C. § 102(b)

In the Office Action of Jan. 5, 2007, the Examiner Rejected claims 1-20 under 35 U.S.C. § 102(b) as being anticipated by Microsoft Solution Framework, "MSF Project Management Discipline", v 1.1 ("MSF" hereinafter). Applicant respectfully disagrees and overcomes this rejection. Further, Applicant has amended claims 1-20.

A. Characterizing the MSF Reference

The MSF reference is a "white paper," which is a term that refers to documents that argue non-governmental positions. Many white papers today espouse the benefits of particular technologies and products. These types of white papers are almost always marketing communications documents and are designed to promote a specific company's solutions or products as it relates to the issue or topic examined. As a marketing tool, it is important to note that these papers will always highlight information favorable to the company authoring or sponsoring the paper while minimizing any negative aspects related to the company's involvement with the issue, product or technology. White papers are used to collect leads, establish thought leadership or close

Serial No. 10/700,431

Page 18

sales.

The MSF reference discloses a distributed team approach to project management that is directed towards accountability and scalability from small projects to very large, complex projects. The MSF reference describes how the distributed team approach works and also explains how project managers relate to the team model disclosed. The focus in the MSF reference is on large projects with extended teams. While not touching on all aspects of the project management field, the MSF reference recommends practices for planning and estimating.

B. Reference Does Not Disclose Applicant's Claimed Invention

The MSF reference does not disclose the following elements claimed by amended independent claims 1, 5, 9, 13 and 17:

- 1) generating a plurality of project plans having a critical chain;
- 2) generating buffers for each of the plurality of projects, wherein at least one of the buffers generated is placed on the critical chain;
- 3) reconciling project resources among the plurality of projects so as to accommodate the critical chain; and
- 4) allowing the user to manage the buffers across the plurality of projects based on the status information about the buffers

With regard to element 1) above, the MSF reference does not disclose anything related to the critical chain methodology of project management. The critical chain methodology is described, among other places, in paragraph [0010] of Applicant's specification, reproduced in relevant part below:

[0010] A new approach to project management, the critical chain project management methodology, offers a solution to manage uncertainties in a single project environment, where resources are dedicated to individual projects. A key component to this approach suggests putting blocks of unscheduled time, called buffers, at key

Serial No. 10/700,431

Page 19

integration points in project plans to absorb the shocks of uncertainties. Another key component of the critical chain project management methodology suggests that buffers are managed during execution to ensure the project meets established time goals. A description of the critical chain-based project management method was first published in Critical Chain, by Eliyahu M. Goldratt, North River Press 1997.

Although the Examiner states that critical chain is disclosed in the MSF reference, a review of the MSF reference reveals that there isn't even a mention of these word in the entire reference. The MSF reference does not disclose in any way the critical chain methodology.

The critical chain methodology is fundamental to and inextricable from the claimed process, as described, among other places, in paragraphs [0041]-[0042] of Applicant's specification, reproduced in relevant part below:

[0041] The present invention, according to a preferred embodiment, overcomes problems with the prior art by providing multi-project buffer management for an efficient and easy-to-implement multi-project management system utilizing the critical chain methodology.

[0042] . . . Another advantage of the present invention is the calculation of task priorities among multiple projects. Implementing the critical chain project management methodology in a multi-project environment requires multi-project buffer management. Thus, the present invention provides multi-project buffer management in order to provide task priorities across multiple projects. The calculation of task priorities across multiple projects allows managers to assign resources based on the overall need of all projects. (Emphasis Added)

With regard to element 2) above, the MSF reference does not disclose generating buffers and placing them on the critical chain. This process is a part of the critical chain project management methodology, as described, among other places, in paragraph [0076] of Applicant's specification, reproduced in relevant part below:

Serial No. 10/700,431

Page 20

[0076] Critical chain-based project management methodology includes two main components: the placement of buffers in the correct locations of a project plan and using the status of these buffers during execution to decide what tasks to focus on. This second component is called buffer management. The main idea of buffer management is that the rate at which buffers are depleting is monitored and priority is given to tasks that lie on chains where buffers are fast depleting.

With regard to element 3) above, the MSF reference does not disclose reconciling project resources among the plurality of projects so as to accommodate the critical chain, as described, among other places, in paragraph [0070] of Applicant's specification, reproduced in relevant part below:

[0070] Whereas the load on each resource is shown as the entire horizontal bar adjacent to a resource name, the red or dark portion of the bar indicates that portion of the resource that is scheduled on tasks that are part of the critical chain. According to the critical chain-based project management methodology, every project or set of projects has one critical chain of tasks/events that must be protected in order to realize established goals. The critical chain should be prioritized in order to maintain time and budget goals. (Emphasis Added)

With regard to element 4) above, the MSF reference does not disclose allowing the user to manage the buffers across the plurality of projects based on the status information about the buffers. The MSF reference may disclose managing buffers, but it does not disclose managing buffers based on the status information about the buffers, as described, among other places, in paragraph [0076] of Applicant's specification, reproduced in relevant part below:

[0076] Critical chain-based project management methodology includes two main components: the placement of buffers in the correct locations of a project plan and using the status of these buffers during execution to decide what tasks to focus on. This second component is called buffer management. The main idea of buffer management is that the rate at which buffers are depleting is monitored and priority is given to tasks that lie on chains where

Serial No. 10/700,431

Page 21

buffers are fast depleting.

Furthermore, the MSF reference does not disclose the following elements claimed by amended independent claims 5, 13 and 17: continuously modifying task prioritization for any task of the plurality of projects based on the status information about the buffers, wherein task prioritization is calculated across the plurality of projects.

With regard to the task prioritization claim element in the MSF reference, the Examiner's points to only one section of the MSF reference - a section of p. 29 entitled "Time Boxing." This section of the MSF reference does not refer to task prioritization and does not even include the word "task" nor the words "priority" or "prioritization." How can this section of the MSF reference refer to task prioritization when it does not even use the words "task" or "prioritization?"

The process of continuously modifying task prioritization for any task of the plurality of projects based on the status information about the buffers, wherein task prioritization is calculated across the plurality of projects, is essential to amended independent claims 5, 13 and 17, and it is described, among other places, in greater detail in paragraph [0094] of Applicant's specification, reproduced in relevant part below:

[0094] Returning to FIG. 10, also shown is the provision of task prioritization 1004 during execution of the project. Task prioritization 1004 is a process of the present invention whereby task priorities over multiple projects are calculated. The present invention calculates the task priority for every task of the multitude of projects and thus provides a true multi-project task priority, as the calculation is based on multiple factors such as relative project priority, relative buffer priority, buffer consumption rates and other factors. The calculation of task priorities across multiple projects allows managers to see a complete picture of the entire project and thus see the true priority of a particular task. The calculation of a task priority for a single project shows only a partial priority of a particular task. The method in which task priorities are calculated is described in more detail with reference to FIG. 14 below.

Serial No. 10/700,431

Page 22

In summary, the MSF reference does not disclose every element of amended independent claims 1, 5, 9, 13 and 17. Dependant claims 2-4, 6-8, 10-12, 14-16 and 18-20 include all elements of independent claims 1, 5, 9, 13 and 17, respectively, from which they depend. Therefore, the MSF reference does not disclose every element of the aforementioned dependant claims. Thus, the applicant respectfully requests withdrawal of the rejection of claims 1-20 under 35 USC § 102(b).

D. Inoperability of Reference

The Applicant further asserts that the MSF reference above is not operable and therefore not enabling.

"In determining that quantum of prior art disclosure which is necessary to declare an applicant's invention 'not novel' . . . the stated test is whether a reference contains an 'enabling disclosure'..." *In re Hoeksema*, 399 F.2d 269, 158 USPQ 596 (CCPA 1968). The disclosure in an assertedly anticipating reference must provide an enabling disclosure of the desired subject matter; mere naming or description of the subject matter is insufficient, if it cannot be produced without undue experimentation. *Elan Pharm., Inc. v. Mayo Found. For Med. Educ. & Research*, 346 F.3d 1051, 1054, 68 USPQ2d 1373, 1376 (Fed. Cir. 2003) (At issue was whether a prior art reference enabled one of ordinary skill in the art to produce Elan's claimed transgenic mouse without undue experimentation. Without a disclosure enabling one skilled in the art to produce a transgenic mouse without undue experimentation, the reference would not be applicable as prior art.). A reference contains an "enabling disclosure" if the public was in possession of the claimed invention before the date of invention. "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his [or her] own knowledge to make the claimed invention." *In re Donohue*, 766 F.2d 531, 226

Serial No. 10/700,431

Page 23

USPQ 619 (Fed. Cir. 1985).

A review of the MSF reference reveals that the reference does not disclose any description of the basic network architecture of the systems it describes. The MSF reference is simply a "white paper" (see above for a description of this term) that should be accorded the weight of such a document. The reference makes no mention of the basic building blocks that would be necessary to build the systems described by the reference by a person of ordinary skill in the art. In fact, on p. 5 of the MSF reference, it is specifically stated that:

This paper is not intended to provide a how-to guide of project management, nor does it attempt to explain the many techniques used by skilled project managers.

More specifically, the MSF reference makes no mention of any computer, processor, network or server – the basic building blocks of a network computer system, which is described in detail in Applicant's disclosure. In fact, there is no instance of the words "computer," "processor," "system," or "network" anywhere in the MSF reference. How can there be an enabling disclosure of a network computer system when none of these basic terms are even mentioned in the disclosure?

In short, the MSF reference is a general description of a project management approach, but the reference does not describe a computer system with enough specificity to be an "enabling disclosure." For this reason, the MSF reference is not an appropriate prior art reference and Applicant respectfully requests withdrawal of the rejection of claims 1-20 under 35 USC § 102(b).

CONCLUSION

Reconsideration and withdrawal of the Office Action with respect to claims 1-20 is requested. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Serial No. 10/700,431

Page 24

In the event the examiner wishes to discuss any aspect of this response, please contact the attorney at the telephone number identified below.

Respectfully submitted,

By: _____


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I hereby certify that a copy of this Office Action was submitted to the U.S. Patent and Trademark Office on April 5, 2007 via fax to 571-273-8300.

By: _____


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